



**Office of the New York State
Attorney General**

**Letitia James
Attorney General**

June 13, 2025

Via ECF

Honorable Robert W. Lehrburger
United States Magistrate Judge
Southern District of New York
New York, New York 10007

Re: *M.G., et al., v. N.Y. City Dep't of Educ., et al.*, 13 Civ. 4639 (SHS) (RWL)

Your Honor:

This Office represents Defendants the New York State Education Department (“SED”) and the Commissioner of SED (collectively, the “State Defendants”) in the above-referenced matter. We write to request that Your Honor issue an order directing Plaintiffs to identify the topics of their anticipated expert reports and the names of their experts by July 3, 2025.

On March 28, 2025, Your Honor issued a post-discovery scheduling Order which, *inter alia*, directed the parties to advise whether they plan to retain experts (other than rebuttal experts) by May 30, 2024. *See* ECF No. 502. The Order further provides that the parties must submit expert reports by August 15, 2025 and any rebuttal reports by September 30, 2025. *Id.*

On May 30, 2025, Plaintiffs’ counsel advised that with respect to the Autism Services Class and Subclass, Plaintiffs intend to retain experts on “Autism, ABA, and Special Education Policy and Administration” and with respect to the NPS Class and Subclass, Plaintiffs intend to retain an expert on “Special Education Policy and Administration.” In an effort to begin the process of identifying and retaining rebuttal experts, on June 2, 2025, the State Defendants asked Plaintiffs to specify the topics of their anticipated expert reports and, if available, to provide the names of their experts.¹ Plaintiffs’ counsel refused, citing the lack of an Order expressly obligating them to provide this information, and indicated that they will only respond to the State Defendants’ query if directed to do so by the Court. The parties’ correspondence is attached hereto as Exhibit A. While the State Defendants had hoped to work collaboratively with Plaintiffs regarding expert discovery, we now have no choice but to reluctantly seek relief from the Court.

¹ Broad subject descriptions like “Autism, ABA, and Special Education Policy and Administration” are patently insufficient to provide notice of the specific topics upon which Plaintiffs’ experts will opine and, accordingly, do little to assist the State Defendants in identifying rebuttal experts.

It is unclear why or to what end Plaintiffs have refused to provide the requested information. As of March 27, 2025, Plaintiffs advised the Court that they “had several experts in mind” and that Plaintiffs were “*continuing to work with their prospective experts* to confirm schedules” and even had, as of nearly three months ago, a “leading expert candidate[.]” *See* ECF No. 501 at p. 3-4 (emphasis added). While Plaintiffs have had the luxury of months, if not years, to identify and retain their experts, the State Defendants are on a much more limited timeline. As always, the State Defendants are keen to move this case forward, and would like to commence the process of identifying and retaining rebuttal experts to avoid any delays down the line.

Accordingly, the State Defendants respectfully request that Your Honor issue an Order directing Plaintiffs to identify the topics of their experts’ anticipated reports and the names of their experts by July 3, 2025.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/

Elyce N. Matthews
Samuel Martin
Assistant Attorneys General
(212) 416-8910
Elyce.Matthews@ag.ny.gov

Exhibit A

From: [Elisa Hyman](#)
To: [Matthews, Elyce](#)
Cc: [David Rosenfeld](#); [Martin, Samuel](#); [Perez, Daniel \(LAW\)](#); [Avital Malina](#)
Subject: Re: M.G. v. NYC DOE - Plaintiffs' Position on Experts
Date: Friday, June 6, 2025 2:20:59 PM

Feel free to go to the Court if need be, but the schedule for expert disclosures seems clear to us.

On Fri, Jun 6, 2025 at 2:20 PM Elisa Hyman <elisahyman@gmail.com> wrote:

I believe this information is due at the time the expert disclosure/reports are filed under FRCP 26.

On Fri, Jun 6, 2025 at 10:39 AM Matthews, Elyce <Elyce.Matthews@ag.ny.gov> wrote:

Hi David,

As you know, to the extent Plaintiffs intend to use experts to opine on specific topics, we intend to identify rebuttal experts. In order to identify rebuttal experts, we need to know who Plaintiffs' experts are and what they intend to opine about. We're happy to go to the Court for an Order but we were optimistic we could do this collaboratively.

e

Elyce N. Matthews (she/her) | Assistant Attorney General

Office of the New York State Attorney General

State Counsel | Litigation Bureau

28 Liberty Street | New York, New York 10005

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From: David Rosenfeld <drosenfeld@rgrdlaw.com>

Sent: Thursday, June 5, 2025 4:10 PM

To: Matthews, Elyce <Elyce.Matthews@ag.ny.gov>; Elisa Hyman <elisahyman@gmail.com>;
Martin, Samuel <Samuel.Martin@ag.ny.gov>; Perez, Daniel (LAW) <danipere@law.nyc.gov>

Cc: Avital Malina <AMalina@rgrdlaw.com>

Subject: RE: M.G. v. NYC DOE - Plaintiffs' Position on Experts

Hi Elyce. I don't believe the court's March 28, 2025 order directed us to provide that

information at this time. Is there another order you're looking at?

From: Matthews, Elyce <Elyce.Matthews@ag.ny.gov>

Sent: Monday, June 2, 2025 12:15 PM

To: Elisa Hyman <elisahyman@gmail.com>; Martin, Samuel <Samuel.Martin@ag.ny.gov>; Perez, Daniel (LAW) <danipere@law.nyc.gov>

Cc: David Rosenfeld <drosenfeld@rgrdlaw.com>; Avital Malina <AMalina@rgrdlaw.com>

Subject: RE: M.G. v. NYC DOE - Plaintiffs' Position on Experts

EXTERNAL SENDER

Hi Elisa – hope all is well. Thanks for sending this. Please let us know the topics you plan to have the experts opine on with respect to each of the claims and, if you have them, the names of the experts. Many thanks.

e

Elyce N. Matthews (she/her) | Assistant Attorney General

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From: Elisa Hyman <elisahyman@gmail.com>

Sent: Friday, May 30, 2025 5:23 PM

To: Matthews, Elyce <Elyce.Matthews@ag.ny.gov>; Martin, Samuel <Samuel.Martin@ag.ny.gov>; Perez, Daniel (LAW) <danipere@law.nyc.gov>

Cc: David Rosenfeld <DRosenfeld@rgrdlaw.com>; Avital Malina <AMalina@rgrdlaw.com>

Subject: M.G. v. NYC DOE - Plaintiffs' Position on Experts

[EXTERNAL]

Counselors:

I am writing to provide Plaintiffs' position on experts.

Unless something materially changes:

1. With respect to the Autism Services Class and Subclass, Plaintiffs intend to retain experts on Autism, ABA, and Special Education Policy and Administration.
2. With respect to the NPS Class and Subclass, Plaintiffs intend to retain an expert on Special Education Policy and Administration, although due to the fact that there are autistic children in the NPS class, the experts in Autism and ABA may opine on issues relating to NPS Programs.

I hope you have a nice weekend.

Best,

Elisa

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Elisa Hyman

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